IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 663 OF 2005

Kondiba Kashiram Dhumal ... Appellant

V/s

Ganpati Laxman Kolekar & ors. ... Respondents

Mr. Sunil Dighe for the appellant.

Mr. A.M. Kulkarni for the respondent No.1.

CORAM: P.V. KAKADE, J.

DATED: 5TH OCT., 2005

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by the learned Ad-hoc Addl. District Judge, Sangli, dated 10.2.2005 dismissing the appeal and confirming the judgment and order passed by the Jt. Civil Judge, J.D., Sangli, dated 11.2.1999 decreeing the plaintiff’s suit.

2. I have heard the learned counsel for both parties. Perused the record.

3. The plaintiff filed the suit for declaration and

possession of the suit property admeasuring 60 ft. x 47 ft. which was sold by defendant No.1 by a registered sale deed to plaintiff on 16.11.1979. The plaintiff filed the suit when defendants denied plaintiff's claim and prayed for declaration and possession of the suit property.

Defendants contested the suit denying inter-alia all the allegations of the plaintiff and prayed for dismissal of the plaintiff's suit.

4. The learned Trial Judge adjudicated the dispute on merits on the basis of available evidence holding that the plaintiff had proved that he has purchased the suit property for consideration of Rs.4500/- from defendant No.1 by registered sale deed dated 16.11.1979. It was further held that the sale deed dated 7.2.1980 between defendant Nos. 1 and 2 in respect of the suit property was not valid and not binding on the plaintiff and, as such, the plaintiff was held entitled for declaration of ownership and consequential relief of possession of the suit property and suit came to be decreed.

5. The appeal was carried to the District Court, Sangli. The learned Ad-hoc Addl. District Judge, after

hearing both parties, came to the conclusion that the findings recorded by the Trial Court were just, legal and proper and, therefore, dismissed the appeal. Hence the present appeal.

6. At the outset, it may be noted that there is no substantial question of law involved in this appeal. The learned counsel for the appellant sought to raise question to the effect that the impugned sale deed dated 16.11.1979 was a suspicious document and could not be read in evidence and there were major defects in the sale deed and page 3 in the said document was subsequently inserted showing different dates, thereby mandatory provision of Sec.52 of the Registration Act and Rule 47 (2) of Maharashtra Registration Rules were not complied with and, as such, the said sale deed rendered illegal and relief granted on the basis of such document is sought to be set aside.

7. In this connection, the lower appellate Court has come to the conclusion that by virtue of Sec.87 of the Registration Act so-called defects are not sufficient to affect the validity of the document. According to the learned counsel, there was no seal of Sub-Registrar on the joint of each page of sale deed, there was also no

seal at the foot of the document, there was no stamp on each page showing registration number and page number and, therefore, it was not in compliance with Rule 47(2) of the Maharashtra Registration Rules. However, in this regard, it is to be noted that Sec.87 of the Registration Act runs as under -

> "Nothing done in good faith pursuant to this Act or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of each defect in his appointment or procedure."

Therefore, I am satisfied that the so-called defects in the document are not such which would render the document invalid or illegal as there is absolutely no evidence to show that there were malafides while such defects occurred.

8. It was further submitted that page 3 of the said document was subsequently inserted. This argument is based on the ground that the document itself is four page document and page No.3 is on bond paper of Rs.40/- which shows that it was purchased on 16.11.1979, whereas

other pages are typed on the stamp papers purchased on 23.10.1979. It is to be noted that the document itself was executed on 16.11.1979 and, therefore, it cannot be said that page 3 of sale deed was subsequently replaced by the plaintiff especially when there is no evidence to support this submission. It also not to be overlooked that this ground was not taken either in the pleadings or in the course of the Trial before the Trial Court, however, it was raised only in the appeal memo of first appeal which was found to be dealt with in proper manner by the lower appellate Court Judge. Be as it may, the fact remains that there is no substantial question of law involved in this appeal and the concurrent findings recorded by both the Courts below appear to be based on legal and proper evidence on record and, therefore, I do not find any merit in the appeal and it deserves to be dismissed.

In the result, the appeal stands dismissed with no order as to costs. Consequently, Civil Application No. 901 of 2005 also stands dismissed with no order as to costs.

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